

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MATTHEW DALE,

Petitioner,

v.

CIVIL ACTION NO. 5:24-CV-171
Judge Bailey

WARDEN R. BROWN,

Respondent.

ORDER

The above referenced case is before this Court upon the magistrate judge's recommendation that respondent's Motion to Dismiss or, in the Alternative, for Summary Judgment be granted and petitioner's Petition be denied and dismissed without prejudice. See [Doc. 17 at 7].

On December 10, 2024, this Court granted petitioner's request for an extension of time to file his response or reply to the Report and Recommendation, setting the deadline for February 10, 2025. See [Docs. 18 & 19].

On December 16, 2024, this Court denied petitioner's request to stay the above-styled case and reiterated to petitioner that he must file any objection to the Report and Recommendation on or before February 10, 2025. See [Docs. 20 & 21].

Petitioner has not filed objections to the Report and Recommendation within the time frame provided to him by this Court. Thus, this Court will address and rule on the Report and Recommendation.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.

A *de novo* review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, Magistrate Judge Mazzone's Report and Recommendation [Doc. 17] is **ADOPTED**. Respondent's Motion to Dismiss or, in the Alternative, for Summary Judgment [Doc. 13] is **GRANTED** and petitioner's Petition [Doc. 1] is **DENIED** and **DISMISSED WITHOUT PREJUDICE**. The Clerk is **DIRECTED TO STRIKE** the above-styled case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is also directed to mail a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as reflected on the docket sheet.

DATED: February 11, 2025.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE